

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

Wednesday, August 28, 2019

5:30 p.m.

**Family Living Center
400 3rd Street Northwest**

SUP #009-2019

Subject Property Information

Name of Applicant:	Janelle & Tyrell Smith 40 Brown Rd Sand Coulee, MT 59472
Owner:	Sherrie Smith 40 Brown Rd Sand Coulee, MT 59472
Legal Description:	A tract of land in the N1/2 of S13, T19N, R4E described in Certificate of Survey 3280
Geo-Code(s):	02-2893-13-1-03-03-0000
Parcel Number(s):	0004141500
Parcel Size:	40.480 Acres
Existing Zoning:	Rural Residential 5 (RR5)
Requested Action:	Approval of a Special Use Permit to allow a Second Dwelling
Surrounding Land Uses / Zoning:	North: Residential / RR5 South: Undeveloped / RR5 East: Undeveloped / RR5 West: Residential / MU
Current Land Use:	Residential/Pasture
Applicable Regulations:	Sections 7.1.1.3(1) & 10 Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Janelle and Tyrell Smith to allow the placement of a second dwelling on the parcel legally described as Parcel 0004141500, Geocode 02-2893-13-1-03-03-0000, Cascade County, MT. The applicant is requesting that a Special Use Permit be granted as required by Section 7.1.1.3(1) of the Cascade County Zoning Regulations. The legal owner of the property is Sherrie Smith.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

Findings of Fact:

1. The property is in the Rural Residential 5 (RR5) Zoning District. Second dwellings are allowed in the RR5 District pursuant to Section 7.1.1.3(1) of the Cascade County Zoning Regulations. *"Rural Residential...Uses Permitted Upon Issuance of a Special Use Permit...Second dwelling."*

2. Sherrie Smith is the legal owner of the property.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on August 18, 2019 and August 25, 2019. Legal Notice was sent to adjacent property owners on August 13, 2019. As of writing this staff report, planning staff has received no phone calls or written comments/concerns.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Access to the dwelling unit is proposed off Dahns Lane. An approach permit from the Cascade County Road and Bridge Department will need to be obtained.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

Applicant: Proposed development will not endanger public health or safety. No additional traffic will occur, we will be using an existing approach.

Staff: The impact to traffic conditions will be minimal and in line with existing residential development in the town of Sand Coulee and the immediate area. An approach permit will need to be obtained from the Cascade County Road and Bridge Department.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: The proposed development will not effect the public health or safety as all utilities are close and ready to direct to house.

Staff: The application states that the structure will have a septic system installed, this will require a permit from the City-County Health Department. Water will be provided by the Stockett Water & Sewer District, a letter confirming the ability to hook into their water system will need to be obtained.

- c. Soil erosion and sedimentation.

Applicant: The proposed development will not effect the publics health, we will not be changing grades to effect run-off or moving enough earth to effect erosion etc.

Staff: When considering the relative size of the parcel (40.48 acres) in relation to the proposed project, it is unlikely there would be any impact on soil erosion and sedimentation.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: The proposed development will not effect public health water supplies. We will be using city water, a hook up is already on property line reserved for this residence. Natural grades will be left for water to drain naturally.

Staff: Staff does not anticipate any significant impacts to the groundwater or water supplies in the area.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: There will be no conflict with adjoining properties. If a conflict should arise we will be more than happy to accommodate adjoining land owner.

Staff: The proposed development is in line with existing residential development in Sand Coulee and surrounding nearby parcels.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: There is no public need for proposed development, it is private residence.

Staff: While the proposed development is not necessary to public health, safety, and general welfare, Staff does not believe that the second dwelling will generate any contentious issues in the area.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: We plan to keep house/proposed development at a respectable distance from neighboring residence. Should conflict arise we will work with adjoining land owners over a peaceful conversation with county involved.

Staff: Staff does not anticipate any conflicts with the surrounding residential uses.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: Being this is residential we hoe to have a nice home that will help effect the surrounding real estate economy.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: We will be using County/City water, natural gas, fiber optics, all economically beneficial to the county and their natural resources.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: As a residence we will not have a developmental effect on existing businesses.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: Having a beautiful home attracts more people to move into the area

- E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: As a residence we will not have a developmental effect on the county's citizenry.

- F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: As a residence will not have a effect on promoting a strong local business environment.

- G. *Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

Applicant: As a residence we will not have a effect on improving local trade capture for Cascade County Businesses.

- H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: Other then having a possible influence on real estate economy by having a nice home and adding to our beautiful community attracting more people to move to Cascade County.

- I. *Encourage the growth of the agricultural economy.*

Applicant: Possibly one day adding to the agricultural economy by having a horse farm.

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: We would be very open to having wind energy resources on our land, on our hill top if enough land.

Staff: An additional resident in the Sand Coulee area will mean more residents putting money back into the local economy and broaden the County's tax base. As a residential use it will have a minimal impact on commercial development and growth.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: We plan to keep our land open for the deer that live on it along with the red foxes that den. We have horses that graze as well to help reduce fire risks.

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.

Applicant: We hope to only improve the beauty of our unique landscape. With a meadow and rocky butte side we have an abundance of wild life we admire and so does the community.

- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.

Applicant: We hope to honor the beauty and history of our little mining communities in the Coulee.

- D. Assure clean air, clean water, a healthful environment and good community appearance.

Healthy land management is a priority, and a good appearance and relationship in our community. Nice fences, not having over grazed pastures.

- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.

Applicant: We will be using and supporting the natural gas lines that run along our land.

- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

Applicant: We support cleaning and restoring lands and will work with the Cascade County to do so.

Staff: The impact to natural resource development will be non-existent and the property is neither a Superfund or Brownfield site.

GOAL 3: Maintain Agricultural economy

- A. Protect the most productive soil types.

Applicant: We will be hiring a professional to help with septic and foundation work to be beneficial to soil types.

B. Continue to protect soils against erosion.

Applicant: We plan to keep pastures from over grazing to protect soil erosion. We also plan to take proper precautions around development site.

C. Protect the floodplain from non-agricultural development.

Applicant: As a flood plain runs through our land we will be developing out of its path to avoid any effects possible on the floodplain.

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant: We do not have enough agricultural land to add value to the industry.

Staff: Due to the size of the parcel and scope of the project it is unlikely that the expansion of this residence would have an adverse impact on the agricultural economy of the area. According to the US Department of Agriculture's Web Soil Survey, the building site is made up of Bitton and Roy, and Fergus Silty Clay Loam which are considered farmland of statewide importance. The proposed building site is outside of any Special Flood Hazard Area (SFHA). There is a portion of the property within Zone AE of the Special Flood Hazard Area. Staff will require a site plan demonstrating the distance of the structure away from the SFHA.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

Applicant: Proposed development will have no effect on maintaining a current mission status.

B. Promote the location of additional military missions in Cascade County.

Applicant: Proposed development will have no negative effect on promoting the location of additional military missions.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: Proposed development encourages and supports but has no effect of the runway.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: Proposed development does not boarder any military sites.

Staff: Staff does not believe that this application will have any impact on the presence of the US Military in Cascade County. The nearest launch facility is over ten (10) miles away from the subject property.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: We hope being at our residence will show our love for the community and help the economy grow by having a beautiful rural property and help increase the real estate economy.

- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: We hope to preserve the rich mining history in our community in any way we can.

- C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface

Applicant: We keep our pastures grazed ot reduce fire risks. We also try to mow our ditches ot keep grass back from roads.

- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: We strongly encourage these things, but as a residence we will only be able to set an example.

Staff: Staff concurs that this project meets Goal 5. The site will be serviced by the Sand Coulee Volunteer Fire Department.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: No response.

Staff: The proposal will not have a negative impact on the municipal or joint land use plans.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow for a Second Dwelling on Parcel 0004141500, Geocode 02-2893-13-1-03-03-0000 be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and findings of fact and **approve** the Special Use Permit to allow for a Second Dwelling on Parcel 0004141500, Geocode 02-2893-13-1-03-03-0000 subject to the following conditions:
 - 1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 - 2. The applicant provides a letter from the Stockett Water & Sewer District to confirm their ability to connect to Stockett city water.
 - 3. The applicant obtains wastewater approval and septic permit from the Cascade City-County Health Department.

4. The applicant provides a to-scale site plan showing the distance from their proposed structure to the closest point of the Special Flood Hazard Area.
5. The applicant obtains an Approach Permit from the Cascade County Road and Bridge Division for their approach on to Dahns Lane.

Attachments:

- Special Use Permit Application
- Zoning Section 7.1.1- 7.1.1.3(1)
- Vicinity Map
- Site Plan
- COS 3280
- FIRMette

cc: Janelle Smith, Tyrell Smith, and Sherrie Smith